

1 Rene L. Valladares
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 *Amelia L. Bizzaro
5 Assistant Federal Public Defender
6 Wisconsin State Bar No. 1045709
7 411 E. Bonneville Ave., Ste. 250
8 Las Vegas, Nevada 89101
9 (702) 388-6577
10 amelia_bizzaro@fd.org
11

12 *Attorney for Petitioner Michael L. Smith.

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 Michael L. Smith,
16 Petitioner,
17 v.
18 Renee Baker, *et al.*,
19 Respondents.

20 Case No. 3:13-cv-00246-RCJ-WGC

21 **Unopposed Motion for Extension**
22 **of Time to File Opposition to**
23 **Motion to Dismiss**
24 **(First Request)**
25
26
27

1 **POINTS AND AUTHORITIES**

2 Petitioner Michael L. Smith respectfully asks this Court to enter an Order
3 extending his deadline for filing a Opposition to the warden's motion to dismiss for
4 90 days until July 21, 2019.

5 On August 23, 2016, this Court granted a stay and administratively closed
6 Smith's case while he returned to exhausted his claims.¹ After completing his state
7 court proceedings, Smith sought to reopen the federal case, and submitted a copy of
8 his Second Amended Petition.² This Court granted the request and ordered the
9 warden to file a response.³ After three extensions, the warden filed a motion to
10 dismiss on March 8, 2019.⁴ Smith's Opposition is due today, April 22, 2019.⁵

11 This is Smith's first request for an extension.

12 This extension is necessary to allow counsel time to prepare and file Smith's
13 Opposition, addressing the myriad of procedural defenses the warden claime,d
14 including exhaustion, procedural default, waiver, and allegations that some of his
15 claims are not cognizable on federal habeas.⁶

16 This request takes counsel's schedule into mind. Counsel expects to be out of
17 the office completely from April 26, 2019 through May 10, 2019 on medical leave.
18 She expects to work from home from May 13 through May 24, recovery permitting.
19 She will also be out of the office on June 6 to 7 for a Ninth Circuit oral argument in
20 Portland, Oregon, and from June 8 to 23 for a long-planned family vacation out of
21 the country. Even if counsel's recovery is difficult and she cannot work remotely
22

23 ¹ ECF No. 43.

24 ² *Id.* See also ECF No. 41, 41-1.

25 ³ *Id.*

26 ⁴ ECF Nos. 45, 46, 47, 52.

27 ⁵ See ECF No. 43.

⁶ ECF No. 52.

1 from May 13 through May 24, she believes the requested extension will give her
2 enough time to still complete the Opposition by July 21, 2019.

3 Over the past two months, since learning of the need for medical leave,
4 counsel has been diligently working on her cases to complete as much as possible
5 before leaving. As a result, she was unable to complete the Opposition in this case.

6 This motion is not filed for the purposes of delay but in the interests of
7 justice, as well as in Smith's interests. Accordingly, Smith respectfully asks this
8 Court to grant the requested extension to July 21, 2019.

9 Counsel spoke to Senior Deputy Attorney General Allison Herr on the
10 telephone earlier this month about this request and she replied that she did not
11 object to the requested extension.

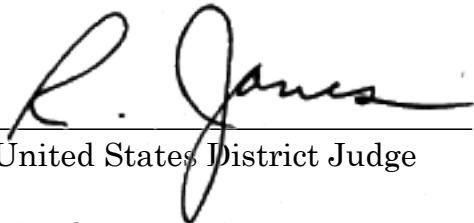
12 Dated April 22, 2019.

13 Respectfully submitted,

14 Rene L. Valladares
15 Federal Public Defender

16
17 /s/Amelia L. Bizzaro
18 Amelia L. Bizzaro
19 Assistant Federal Public Defender

20
21 IT IS SO ORDERED:

22
23 
24 United States District Judge

25 Dated: August 9, 2019